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9
10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

13 **JORGE A. PANTOJA,**

14 Petitioner,

15 v.

16 **K. PROSPER, Warden,**

17 Respondent.
18

C 07-3572 CRB

**DECLARATION OF COUNSEL IN
SUPPORT OF APPLICATION FOR
EXTENSION OF TIME TO FILE
ANSWER TO PETITION FOR
WRIT OF HABEAS CORPUS**

19 SHARON G. BIRENBAUM declares under penalty of perjury as follows:

20 1. I am a Deputy Attorney General for the State of California and am responsible for
21 the preparation and filing of an answer to the Petition for Writ of Habeas Corpus.

22 2. On November 15, 2007, this Court filed the Order to Show Cause, which requires
23 respondent to file an answer and relevant trial transcripts within 60 days. Our docketing unit
24 received the order on November 19, 2007. We did not receive a copy of the petition until November
25 26, 2007. Upon receiving the order, I requested our docketing staff to retrieve the file in petitioner's
26 state appeal, which had been closed and sent to storage in Sacramento.

27 3. Since receiving the order to show cause, I filed respondent's briefs in *People v.*
28 *Hart*, A118845, *People v. Moelk*, A117635, and *People v. Eaton*, A117297, in which defendants

1 had filed their opening briefs before the order was filed in this case. I also prepared and am in the
2 process of filing a motion to dismiss a petition for writ of habeas corpus for failure to exhaust state
3 remedies in this Court in *Brown v. Malfi*, C 06-7140 CRB. Petitioner raised 41 issues in his federal
4 habeas and several petitions in the state courts which had to be analyzed.

5 5. Before I can turn my attention to the instant case, I must file respondent's briefs
6 in state court in *People v. Monteverde*, H031351, *People v. Anderson*, H031106, and *People v.*
7 *Chandler*, A114037, which has a large record and in which defendant raises numerous issues on
8 appeal. The defendants in these cases filed their opening briefs before the order in this case issued.

9 6. I have not contacted petitioner. He is representing himself and is currently
10 incarcerated in state prison.

11 I declare under penalty of perjury that the foregoing is true and correct. Executed at
12 San Francisco, California on January 3, 2008.

13
14 /s/ Sharon G. Birenbaum
15 SHARON G. BIRENBAUM
16 Deputy Attorney General
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